

**CODE OF ORDINANCES
City of
MUSKEGON, MICHIGAN**

**Codified through
Ordinance No. 2064, adopted December 11, 2001.**

PART I CHARTER*

***Editor's note--**Printed herein is the City Charter, as adopted by the voters on October 16, 1919. It is derived from the compilation of the original charter and amendments prepared by Mr. A.J. Leutscher, City Clerk. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

PREAMBLE

The People of the City of Muskegon, acting in accordance with the "Home Rule Act" of the State of Michigan, do adopt the following Revised Charter:

CHAPTER I. INCORPORATION; BOUNDARIES AND GENERAL POWERS

Section 1. Body politic, etc.; official name.

The inhabitants of the City shall be a body politic and corporate under the name of the City of Muskegon and in that name the City shall hold the title to all its property and conduct all its affairs.

Section 2. General powers.

The City of Muskegon shall have and exercise all powers pertaining to municipal corporations and all those granted or recognized by the laws of the State, whether herein expressly mentioned or not, and the grant of any power herein contained shall not be construed as excluding any other power, but the City shall be presumed to have all powers necessary or suitable for the maintenance of good government and for the promotion of the welfare and happiness of its inhabitants, not forbidden by the constitution and general laws of the state.

State law reference(s)--Permissible charter provisions, MCL 117.4j(3); general limitations on powers of city, MCL 117.5.

Section 3. Reserved.

Editor's note--The city boundaries formerly set out in this section are outdated and therefore were omitted.

Section 4. Four wards.

The City of Muskegon shall be apportioned into four (4) wards in accordance with law.

(As amended November 2, 1982, § 1)

State law reference(s)--Mandatory requirement that Charter provide for establishment of one or more wards, MCL 117.3.

Section 5. Voting precincts, boundaries.

The voting precincts of the City shall remain as they are until altered by the City Commission. The City Commission shall have power to increase or diminish the same and to change their boundaries as conditions shall demand.

State law reference(s)--Election precincts, MCL 168.654 et seq.

CHAPTER II. ELECTIONS*

***State law reference(s)**--Elections generally, MCL 168.1 et seq.; mandatory that charter provide for elections, MCL 117.3(b), (c).

Section 1. Registration, elections; state law.

The general registration and election laws of the State of Michigan, except as herein otherwise provided, shall apply to and control the registration of electors and the conduct of elections in the City of Muskegon.

State law reference(s)--Michigan Election Law, MCL 168.1 et seq.; registration of electors, MCL 168.491 et seq.

Section 2. Electors; qualifications; voting precincts.

The inhabitants of the City having the constitutional qualifications of electors of the State shall be electors of the City. Each one shall vote in the voting precinct wherein he shall have lodged for twenty (20) days prior to the date of election.

State law reference(s)--Residence in city as of thirtieth day prior to election required, MCL 168.492.

Section 3. Election inspectors, appointment.

At least thirty (30) days prior to the first election after they enter upon the duties of their office, the City Commission shall appoint three (3) qualified electors in each voting precinct to be inspectors of election for such precinct and they shall continue so to act at the will of the City Commission.

Editor's note--Election inspectors are now appointed by the board of election commissioners at least 21 but not more than 40 day prior to the election. See MCL 168.674.

Section 4. Board of election commissioners.

Within the time limit in the last preceding section, the City Commission shall appoint three (3) qualified electors to be a board of election commissioners for the City and they shall serve in that capacity at the pleasure of the City Commission.

State law reference(s)--Board of city election commissioners, MCL 168.25.

Section 5. Nonpartisan primary required; exception; time.

A nonpartisan City primary election shall be held in each even numbered year upon the same date that the general State primary election shall be held immediately preceding the general State November election in that year, if nominating petitions for candidates eligible to be placed on the ballot to a number greater than twice the number

of positions to be filled in any elective office, shall have been filed with the City Clerk as provided by this Charter.

(As amended April 7, 1947)

State law reference(s)--Requirement that Charter provide for the nomination of elective officers by a primary election, MCL 117.3(c); municipal elections set in an odd year election, MCL 168.641 et seq.

Section 6. Nonpartisan regular election; time.

A nonpartisan regular City election shall be held on the first Tuesday after the first Monday of November in each even numbered year.

State law reference(s)--Mandatory that Charter provide for time, manner and means of holding elections, MCL 117.3(c); odd year elections, MCL 168.641 et seq.

Section 7. Special election; resolution required, contents.

Special elections may be held at such times and places as the City Commission may by resolution designate, the purpose of which shall be fully set forth in the resolution.

State law reference(s)--Special election date must be approved by a county election scheduling committee, MCL 168.639.

Section 8. Candidates; petitions; form, signatures.

Candidates for elective office shall be nominated from the City at large, or from their respective wards, by petition, blanks for which shall be furnished by the City Clerk. Each petition shall be signed by not less than fifty (50) qualified electors and shall be filed with the City Clerk at such time as may be provided by law preceding a primary election. Each elector signing shall add his residential street and number and date of signature. No elector shall sign petitions for more candidates for any office than the number to be elected to such office.

(As amended November 2, 1982, § 2)

State law reference(s)--Nonpartisan nominating petitions, MCL 166.544a; last day for filing nominating petitions where local primary falls on same day as state or county primary election, MCL 168.646a.

Section 9. Nominating petitions; sufficiency, determination; candidates, certification.

The City Clerk shall accept for filing only nominating petitions on official blanks containing the required number of signatures for qualified candidates. He shall forthwith determine the sufficiency of signatures on each petition filed. Petitions which are found by the clerk to contain the required number of signatures of registered electors for qualified candidates shall be marked 'approved' with the date thereof. Within three days after the time limited for filing nomination petitions the City Clerk shall certify to the Board of Election Commissioners the names of all the candidates duly nominated, and special matters, if any, to be submitted to the electors.

State law reference(s)--Certification of nominating petitions by city clerk, MCL 168.552; validity of petition or signature, MCL 168.552a.

Section 10. Ballots; contents; candidates' names; special matters.

The names of the candidates shall be placed by the Board of Election Commissioners on the primary ballot for only such positions as shall have more than twice the number of candidates seeking each office to be filled by election. Special matters, if any, shall likewise be placed upon said ballot. The candidates in the primary election receiving the largest number of votes, to a number equal to twice the number of positions to be filled in any office, and the names of candidates not required to be placed on the primary election ballot, shall be placed on the ballot at the regular city election, together with special matters, if any, to be voted upon.

State law reference(s)--Preparation and distribution of ballots, MCL 168.559 et seq.

Section 11. Polls; hours open.

The polls shall be open in each voting precinct from 7:00 a.m. to 8:00 p.m.

State law reference(s)--Similar provisions, MCL 168.720.

Section 12. Canvass of votes; board of election commissioners duties.

Immediately upon the closing of the polls the precinct election inspectors shall canvass the votes and announce the results as provided in the general election laws for county and state elections. They shall first canvass the votes for city officers and shall forthwith make a statement of all votes cast at the election and file the same at once with the City Clerk. The board of election commissioners shall act as a board of city canvassers to canvass the votes cast at all elections under this Charter. They shall meet at the City Hall on the Thursday following each election at 9:00 in the forenoon, and publicly canvass the election returns, and shall determine the vote upon all questions and propositions and declare whether the same have been adopted or rejected and what persons have been nominated or elected at such election. The candidate or candidates, where more than one are to be nominated or elected to the same office, who shall receive the largest number of votes shall be nominated or elected. Upon the completion of the canvass the board shall file with the City Clerk a statement of their determination and the City Commission shall enter the same upon the official records of the City.

State law reference(s)--Appointment, qualifications, selection, duties, etc., of city board of canvassers, any Charter provision notwithstanding, MCL 168.30a et seq.

Section 13. Tie vote; determination.

If at any city election there shall be no choice between candidates by reason of two or more candidates having received an equal number of votes, then the board of city canvassers shall determine the successful candidate or candidates by lot.

State law reference(s)--Determination of election by lot, MCL 168.851, 168.852.

Section 14. Candidates; nomination, election; notice, time.

Within five days after the filing of the canvass the City Clerk shall give notice to the persons nominated or elected of their nomination or election.

Section 15. Elections, time, place; notice required; state law.

Notice of the time and places of holding any election and the propositions to be voted upon shall be given by the City Clerk in the manner as provided and required by state law relating to elections.

(As amended April 7, 1947)

State law reference(s)--Notice of elections, MCL 168.653a.

Section 16. Ballots; form; party designation prohibited.

The form of the ballot shall conform as nearly as may be to that prescribed by the general laws of the State, except that no party designation or emblem shall appear upon any City ballot.

State law reference(s)--Form of ballots, MCL 168.696 et seq.

Section 17. Recount; state law.

A recount of the votes cast at any city election for any office, or upon any proposition, may be had in accordance with the general election laws of the State.

State law reference(s)--Recounts, MCL 168.861 et seq.

CHAPTER III. CITY OFFICERS

Section 1. Elective officers.

There shall be a City Commission of seven (7) members. Two (2) shall be nominated and elected from the qualified voters of the City at-large, and one (1) shall be nominated and elected from the qualified voters of the City at-large and shall be elected as the Mayor, and one (1) shall be nominated and elected by the qualified voters of each of the four (4) wards as provided in Chapter I, Section 4.

(As amended November 2, 1982, § 3; as amended November 8, 1994, § 1)

State law reference(s)--Mandatory for Charter to provide for election of certain officers, MCL 117.3(a).

Section 2. Appointive officers enumerated.

The following shall be the appointed officers of the City:

- (1) To be appointed by the City Commission:
 - City Manager
 - City Clerk
 - City Attorney
 - City Treasurer
 - City Auditor
 - City Assessor, and one or more assistant assessors as the Commission may determine
 - Three (3) members of the Board of Health
 - Three (3) Election Commissioners
 - Three (3) inspectors of Election for each voting precinct
 - Four (4) members of the Board of Review
 - Such other officers as the Commission may deem necessary or suitable.
- (2) To be appointed by the City Manager:
 - All directors of departments except City Attorney and City Auditor
 - City Engineer
 - City Health Officer
 - Chief of Police
 - Chief of Fire Department
 - Any such other officers as the City Commission may authorize.

(As amended November 8, 1994, § 1)

State law reference(s)--Mandatory that Charter provide for appointed officers, MCL 117.3(a).

Section 3. City Commissioners; qualifications, term; holding additional office, restriction.

The City Commissioners elected at large shall be electors of the City and shall have resided therein at least one (1) year immediately preceding their election and shall remain electors of the City throughout their term of office. The City Commissioners elected from the respective wards shall have resided within their respective wards at least one (1) year immediately preceding their election and shall remain electors of the City and residents of their respective wards throughout their term of office. They shall not during their term of office hold any other City office unless specifically provided in this Charter. They shall be elected at the regular City election. At the first regular City election held after the adoption of this amended section of the Charter, one (1) Commissioner shall be elected from each of the four (4) wards for a term of four (4) years and shall serve with the remaining three (3) Commissioners who shall serve the balance of their unexpired term. At the next succeeding regular City election following the election of Commissioners for each of the four (4) wards, three (3) Commissioners shall be elected at large for a term of four (4) years. Thereafter their successors shall be elected for a term of four (4) years. They shall take office on the first day of January following their election.

(As amended November 2, 1982, § 3)

Editor's note--A one year residency requirement was upheld in *Joseph v. City of Birmingham*, 510 F. Supp. 1319 (E.D. Mich. 1971).

State law reference(s)--Mandatory that Charter provide for qualifications of officers, MCL 117.3(d).

Section 4. Representation in newly annexed area.

Any single area annexed to the City of Muskegon at one time and by means of a popular vote thereon, having a population of five thousand (5,000) or more on the date of said election, shall be entitled to elect an additional member to the City Commission for a period of not less than five nor more than eight years as provided in this section. Said additional member shall have all the rights, powers and duties of a duly elected City Commissioner and shall receive the same compensation. Said population shall be determined by the existing City Commission on a basis of such evidence as may be available including the past previous federal census, school census, tax records, election records, or a special census conducted for the purpose, and its decision shall be final. A special election in the annexed area shall be called by the City Commission as soon as it is reasonably practicable after the effective date of the annexation. At this election prior registration records may be used if available. Subject to the provisions of this section, the election chapter of this Charter and the state election laws shall be followed. The annexed area representative to be elected shall have been a resident of the area for at least four years prior to the date of election and nominations shall be made by petition as provided in the election chapter hereof for City Commissioners. If only one person is nominated within the time limited, the City Commission shall declare such person an

additional member of the City Commission and cancel the election. Said additional member shall hold office from the Tuesday following the canvass of the election of the declaration above provided to the first day of January following the regular municipal election which is held more than one year after the commencement of his original term, at which election said additional membership shall again be voted upon for a full four year term commencing on the first day of January following his election. At the end of the full four-year term so provided, said additional membership shall expire. Only registered electors residing within the annexed area shall be entitled to vote upon the additional membership. In filling any vacancy in such additional membership, the remaining members of the City Commission shall be limited to the selection of a person having qualifications to be a candidate for such membership. In performing the mandate of this section, the City Commission shall act promptly and in good faith and in failure thereof, mandamus shall lie. The provisions of this section shall be construed as modifying and amending any other provisions of the Charter of the City of Muskegon inconsistent therewith.

(Added November 3, 1964)

Editor's note--Originally § 4 of this chapter related to justices of the peace. That section was repealed by an amendment of April 1, 1935, which added Chapter 18, relating to the municipal court. Section 4, as above set out, was added by an amendment of November 3, 1964.

State law reference(s)--Mandatory that Charter provide for elections of certain officers, MCL 117.3(a).

Section 5. Election; city officers; appointment, time.

The City Manager, City Clerk, City Attorney, City Treasurer, City Auditor, City Assessor, three members of the Board of Health and four members of the Board of Review shall be appointed by the City Commission at the same time.

(As amended November 8, 1994, § 1)

Section 6. Appointive officers; tenure.

All officers appointed by the City Commission shall hold at the pleasure of the Commission and all officers appointed by the City Manager shall hold at the pleasure of the manager, unless herein otherwise provided.

Section 7. Officers; qualifications, oath, bond.

All officers shall be citizens of the United States. They shall take the constitutional oath of office and if bonds are required shall give their official bond prior to entering upon the duties of their office and within ten days after notification of their election or appointment.

State law reference(s)--Mandatory that Charter prescribe qualifications of officers, MCL 117.2(d).

Section 8. Officers oath, bond, regulations.

The City Commission may require any officer to give a bond with such condition

and in such amount as the commission may determine and to be approved by the commission. The surety shall be a bonding company authorized to act under the laws of the state and the premium therefor shall be paid by the city.

Section 9. Violation.

A failure to file the oath of office or the bond when required within the time required shall render the office vacant.

Section 10. Resignations, filling vacancies.

All resignations of all elected officers and officers appointed by the City Commission shall be made to the City Commission. Resignations of officers appointed by the City Manager shall be made to the City Manager. In case of a vacancy in any elected office, the vacancy shall be filled within thirty days by a majority vote of the remaining members of the City Commission in office, and the person appointed shall fill the vacancy until the next general election for any city elective office, at which time persons shall stand for election for the balance of any unexpired term of the position which has been filled by the appointment. The person elected shall take office immediately upon certification of the election results. Notwithstanding, any person thus appointed to fill a vacant elected position where the vacancy first occurs less than 180 days before the next such general city election shall hold the position for the balance of the unexpired term of the office.

(As amended November 2, 1999)

State law reference(s)--Vacancies in city office to be filled as provided in charter, MCL 201.37.

Section 11. Sales, purchases, contracts; financial interest prohibited, penalty.

No officer or employee of the City shall be directly or indirectly interested in the sale to or purchase from the City of any property or be directly or indirectly interested as principal, surety or otherwise, in any contract except his contract of employment, the expense or consideration whereof is paid under any ordinance, motion or resolution of the Commission. Any person who shall violate any of the provisions of this section shall on conviction thereof be punished by imprisonment in the county jail or the Detroit House of Correction not longer than ninety days, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment at the discretion of the Court. He shall also forfeit his office. The prohibitions of this section shall not apply to any person if the City Commission shall declare on its records by a unanimous vote of the members thereof that the best interests of the City are served despite a personal interest direct or indirect.

Section 12. Mayor, city commissioners; compensation.

The salary of the Mayor shall be five hundred dollars a year. That of the other Commissioners shall be three hundred sixty dollars. All other salaries shall be fixed by the City Commission.

Editor's note--The above provisions relative to the salary of the Mayor and other Commissioners are superseded by Ordinance No. 711, relating to the local officers' compensation commission and adopted pursuant to MCL 117.5c. See ch. 2, article VII, div. 2 of the Code of Ordinances.

CHAPTER IV. CITY COMMISSION*

***Charter reference(s)**--Additional members of City Commission under representation in newly annexed area, ch. III, § 4.

Section 1. General legislative powers.

The seven City Commissioners shall constitute the legislative body of the City under the name "City Commission" and all the powers of the City of Muskegon not specifically invested by law or by this Charter in some other officer or body shall be exercised by the City Commission.

State law reference(s)--Mandatory that Charter provide for elected legislative body, MCL 117.3(a).

Section 2. Administrative service; dealing with personnel, restrictions.

The City Commission shall be the judge of the election and qualification of its own members subject to the review of the courts. Neither the Commission nor any of its members or committees shall dictate the appointment of any person to office or employment by the City Manager or in any manner interfere with the City Manager to prevent him from exercising his judgment in the appointment of officers or employees in the administrative service. Except for the purpose of inquiry the Commission and its members shall deal with the administrative service solely through the City Manager and neither the Commission nor any member thereof shall give orders to any of the subordinates of the City Manager.

Section 3. City Commission; organization, vice-mayor, meetings, order of business, records.

During the first week in January following the regular municipal election the City Commission shall meet at the council chamber in the City Hall and complete its organization. At the time it shall elect from its own members a vice mayor who shall perform all the duties of the mayor when from any cause the mayor is temporarily unable to perform the duties of his office, or in case of a vacancy in the office of mayor until such vacancy is filled by the City Commission. It shall then establish a time for regular meetings of the Commission which shall be held at least twice in each month. Special meetings may be called at any time by the mayor or by two other commissioners by giving such notice to its members as the Commission shall provide. All meetings of the City Commission shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The Commission shall determine its own rules and order of business and shall keep a record of its proceedings.

State law reference(s)--Mandatory that charter require compliance with Open Meetings Act, MCL 117.3(l); Open Meetings Act, MCL 15.261 et seq.

Section 4. Quorum, adjournments, vote required.

The majority of the members of the City Commission shall be a quorum to do business but in the absence of the quorum two or more commissioners can adjourn meeting to a later date except as herein otherwise provided. The affirmative vote of the majority of the members of the City Commission shall be necessary to adopt any measure before it. All votes except or motion to adjourn and to refer shall be taken by "Yea" and "Nay" vote and entered upon the record.

CHAPTER V. ADMINISTRATIVE SERVICE*

***State law reference(s)**--Mandatory requirement that charter prescribe duties of city officers, MCL 117.3(d).

Section 1. Mayor; powers and duties.

In so far as required by law and for all ceremonial purposes the Mayor shall be recognized as the executive head of the City. He shall be chairman of the City Commission and shall have a voice and vote in its proceedings, but no veto power. He shall authenticate by his signature such instruments as the City Commission, this Charter or the laws of the State shall require.

State law reference(s)--Mayor required, MCL 117.3(a).

Section 2. Administrative departments enumerated.

The following administrative departments are hereby established:

1. Department of Law.
2. Department of Finance.
3. Department of Public Works.
4. Department of Public Health.
5. Department of Public Welfare.
6. Department of Public Safety.

State law reference(s)--Charter may provide for the establishment of departments, MCL 117.4j(1).

Section 3. Department heads enumerated.

Until otherwise provided by ordinance the City Attorney shall be director of the department of law, the City Auditor of the department of finance, the City Engineer of the department of public works, the City Health Officer of the department of public health and welfare, and the City Manager of the department of public safety.

Section 4. Administrative officers; responsibility.

The directors of the departments of law and finance shall be immediately responsible to the City Commission. The other directors shall be immediately responsible to the City Manager for the administration of their departments.

Section 5. City departments; functions, ordinance required.

The City Commission shall by ordinance determine and prescribe the functions of

each department and may create new departments, combine existing departments and establish temporary departments for special work when in its opinion the proper administration of the City requires. The functions of the department of public welfare, however, shall include the supervision and management of all charitable, correctional and reformatory institutions and agencies belonging to the City, the use of recreational facilities of the City, including parks and playgrounds, the inspection and supervision of public entertainments, the study and research into causes of poverty, delinquency, crime and other social problems in the community.

Section 6. City Manager; authority; absence, disability.

The City Manager shall be the administrative head of the municipal government under the direction and supervision of the City Commission and shall hold his office at the pleasure of the Commission. He need not be a resident of the City at the time of his appointment. During his absence or disability the City Commission may designate some properly qualified person to execute the function of the office.

Section 7. City Manager; powers and duties.

Except as herein otherwise provided, the City Manager shall have the following powers and duties:

1. To enforce all city laws and ordinances.
2. To appoint and remove all administrative officials of the city subject to the civil service provisions.
3. To enforce all city contracts and franchises.
4. To supervise all public improvements, works and undertakings.
5. To attend all meetings of the City Commission and to take part therein, but without vote.
6. To prepare the annual itemized budget and to keep the City Commission fully advised as to the financial condition and needs of the City.
7. To recommend to the City Commission for its adoption such measures as he may deem necessary or expedient.
8. To perform such other duties as may be required by this Charter, by ordinance or the direction of the City Commission or as naturally pertain to the general management of the City affairs.

Section 8. City Clerk; powers and duties.

The City Clerk shall be Clerk of the City Commission, shall attend all its meetings, shall keep a permanent journal in the English language of its proceedings and shall sign the same.

He shall attest such instruments as the City Commission, this Charter or the laws of the State shall require.

He shall be custodian of the seal and of all papers, documents and records of the City, the custody of which is not otherwise provided for.

He shall give to the proper officials ample notice of the expiration or termination of all franchises and contracts. He may administer all oaths required to be taken by this charter or by the City Commission. He shall act with the City Assessor in making jury lists.

He shall perform such other duties of a clerical nature as naturally pertain to his office or which shall be required of him by this Charter or by the City Manager.

State law reference(s)--Mandatory requirement that charter provide for city clerk, MCL 117.3(a).

Section 9. City Auditor; powers and duties.

The City Auditor shall keep the City's books of account, which shall show in accurate detail all moneys received and their several sources and all disbursements made and their purposes.

He shall establish and maintain a system of accounts suitable for all departments and officers of the City which shall conform to any uniform system required by law.

He shall examine and audit all accounts and claims against the City except claims for unliquidated damages. He shall not issue or sign any draft, check or warrant until he has verified the correctness of the account for which the same is issued; neither shall he allow the payment of any account unless the money has been appropriated therefor, nor shall he issue or sign any draft, check or warrant for any account against the City unless sufficient money is in the fund on which it is drawn.

He shall examine and audit the books of the City Treasurer once each month and at the close of the fiscal year, or whenever he shall think necessary or shall be directed by the City Commission. He shall examine and audit all books of account of other officers, boards or departments.

All books of account of the City shall be balanced at the close of each month and a report made thereof by the City Auditor to the City Commission. He shall present to the City Commission each month and whenever required by the Commission, a detailed statement of the financial condition of the City which shall include all receipts and expenditures of the various departments, and annually a detailed statement of the debt of the City and the purpose for which it was incurred and an inventory of the property of the City with both its cost and estimated current value.

He shall perform such other duties as naturally pertain to his office or as may be required by this Charter or by the City Commission.

Section 10. City Attorney; powers and duties.

The City Attorney shall act as legal adviser to and as attorney and counsel for the municipality and all its officers in matters relating to their official duties. He shall give written opinions to any official or department of the City whenever requested in writing so to do, and shall file a copy of the same with the City Clerk.

He shall conduct for the City all cases in Court to which the City is a party.

He shall prepare, or officially pass upon, all contracts, bonds and other instruments in writing, in which the City is concerned, and shall verify before execution as to their legality and correctness of form.

He shall perform such other duties as may be prescribed by this Charter or by the City Commission.

Section 11. City Treasurer; powers and duties.

The City Treasurer shall have the custody of all moneys, the City Clerk's bond, and all evidence of value belonging to the City or held in trust by the City.

He shall receive all moneys belonging to and receivable by the City, and shall keep a correct account of all receipts and expenditures.

He shall keep and deposit all moneys or funds in such manner and in such places as the City Commission may determine. He shall report in detail to the City Auditor each day all moneys collected by him.

He shall pay no moneys out of the treasury except in the manner prescribed in this Charter.

He shall have such powers and duties in regard to the collection of school taxes as are given him by law, or by the Charter of the Public Schools of the City of Muskegon, and by this Charter.

He shall perform such other duties as may be prescribed for him by the laws of the State, by this Charter or by the director of finance.

State law reference(s)--Mandatory requirement that charter provide for treasurer, MCL 117.3(a).

Section 12. City Assessor powers and duties.

The City Assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by the general laws of the State.

He shall make and prepare all regular and special assessment rolls in the manner prescribed by this Charter and the general laws of the State. He shall act with the City Clerk in making jury lists.

He shall perform such other duties as may be prescribed for him by this Charter.

State law reference(s)--Mandatory requirement that charter provide for city assessor, MCL 117.3(a).

Section 13. Purchasing Agent; appointment; powers and duties.

The City Manager or some officer other than the auditor or treasurer shall be designated by the City Commission to act as purchasing agent, by whom all purchases for the City shall be made and all vouchers for the payment of the same approved. He shall also conduct all sales of personal property which the City Commission may authorize to be sold.

He shall see to the delivery of supplies to each department and where purchases or sales are made on joint account of several departments he shall apportion the charge of credit to such department.

All purchases and sales shall conform to such regulations as the City

Commission may from time to time prescribe, but in either case if the amount involved is in excess of five hundred dollars, opportunity for competition shall be given.

Section 14. Reserved.

Editor's note--The above section related to city representation on the county board of supervisors and was omitted due to the superseding effect of MCL 46.401 et seq., which provides for the election and apportionment of members of the board.

CHAPTER VI. PUBLIC HEALTH*

***State law reference(s)**--Public Health Code, MCL 14.15(11d) et seq.

Section 1. General powers.

The power of the City to preserve and promote the health of its inhabitants shall be limited only by the laws of the State and needs of the City.

State law reference(s)--Mandatory requirement that charter provide for public peace, health and safety of persons and property, MCL 117.3(j).

Section 2. Board of Health; composition.

The Board of Health shall consist of three members, two of whom shall be registered physicians, residents of the City of Muskegon. The City health officer shall sit with the Board of Health but shall have no vote.

State law reference(s)--Local health departments, MCL 333.2401 et seq.

Section 3. Board of Health; powers and duties.

The Board of Health shall have and exercise for the City all the powers and authority conferred upon boards of health by the general laws of the State, by this Charter and by the ordinances of the City. It shall be its duty and duty of the health officer to see to the enforcement of all laws and ordinances pertaining to public health.

Section 4. Health officer; powers and duties.

The health officer shall have and exercise all the powers of police officers of the City and all power and authority conferred on health officers by the laws of the State, by this Charter or by the ordinances of the City and shall perform all duties required of such officer.

State law reference(s)--Local health departments, MCL 333.2401 et seq.

CHAPTER VII. ORDINANCES*

***State law reference(s)**--Mandatory requirement that Charter provide for adopting, continuing, amending and repealing ordinances, MCL 117.3(k).

Section 1. City Commission; powers.

The City Commission shall have power to enact, amend and repeal all ordinances that may be necessary or proper for carrying out the powers conferred and the duties imposed upon the City by this Charter and by the laws of the State.

Section 2. Ordinances; style; adoption, vote required.

The style of all ordinances shall be "The City of Muskegon Ordains." They shall require for their passage a majority vote of all members of the Commission in office. No ordinance shall be adopted at the same meeting at which it is proposed except by unanimous consent of all members of the Commission then in office.

Section 3. Same; effective date, publication.

Every ordinance shall prescribe the time within which it shall take effect and in case a penalty is imposed such time shall not be less than ten days after the first publication. All ordinances shall be published at least once in one or more of the daily newspapers of the City before they become operative.

Section 4. Initiatory petition; signatures required.

Any proposed ordinance may be submitted to the Commission by petition signed by electors of the City equal in number to fifteen percent of the highest vote cast in the City for commissioner in the last preceding general election. The petition shall contain a request that the ordinance be submitted to a vote of the people if not passed by the Commission and the ordinance shall either be contained in the petition or shall accompany it.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 5. Same; Commission determination required.

Within thirty days after such petition is presented to the Commission, the Commission shall either pass the proposed ordinance without alterations or it shall amend the ordinance if it deems advisable, retaining, however, the general purpose thereof, or it shall submit the same without amendment to the vote of the electors of the City.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 6. Same; amendment by commission; publication, protest.

In case the Commission shall amend the ordinance it shall publish the same as amended in one or more newspapers in the City and if within fifteen days thereafter a protest against the adoption of the ordinance as amended be filed, signed by electors of the City equal in number to ten percent of the highest vote cast in the City for commissioner at the last preceding general election, the ordinance as amended shall be submitted to the electors of the City. If no such protest shall be filed the ordinance shall take effect at the time prescribed by the ordinance, or if that has expired, at the expiration of said period of fifteen days.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 7. Electors; conflicting ordinances, adoption; determination.

In case the amended ordinance is submitted to the electors the original ordinance shall be submitted at the same time as an alternative, but no elector shall vote "yes" to both ordinances. If each ordinance shall have a majority of votes cast on the adoption of the same, the one having the greater number of votes shall be considered adopted. If a single ordinance is submitted and the majority of qualified electors voting thereon shall vote in favor thereof, it shall be adopted.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 8. Ordinances, emergency, effective date, objections.

No ordinance passed by the Commission except when otherwise required by the general laws of the State or by the provisions of this Charter (excepting ordinances for the immediate preservation of the public peace, health or safety which shall contain a statement of urgency and shall be passed by unanimous vote of the Commission) shall go into effect for ten days from the time of its final passage and if during the said ten days there shall be presented to the Commission a protest against the passing of said ordinance signed by electors of the City equal in number to at least fifteen percent of the highest vote cast for candidates for commissioner at the last preceding general election, said ordinance shall thereupon be suspended from taking effect, and it shall be the duty of the Commission to reconsider said ordinance and if the same is not entirely repealed the Commission shall submit it to the vote of the electors.

Section 9. Electors; ordinances, adoption; number unrestricted.

Any number of proposed ordinances may be voted upon at the same election in accordance with the provision[s] of the Charter.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 10. Ordinances; repeal; submission to electors.

The City Commission may submit a proposition for the repeal of any such ordinance or for amendments thereto to be voted upon at any city election and if such

proposition receives a majority of the votes cast thereon at such election the ordinance shall thereby be repealed or amended.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 11. Same; submission to electors, time.

All ordinances submitted to the electors shall be submitted at the next general municipal election after final action taken by the Commission if one is held within ninety days, but if no general election shall be held within that time, a special election shall be called by the City Commission for that purpose and held within that time. Not more than one special election shall be held for such purpose in the period of six months.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 12. Same; adoption, electors; effective date.

Whenever the electors shall adopt an ordinance it shall go into effect at prescribed therein, or if that time shall have expired, ten days after the election.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 13. Ordinances; adoption, electors; repeal, restriction.

No ordinance which as been adopted by the vote of the electors shall be repealed or amended within five years except by vote of the electors.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 14. Ordinances; submission to electors; publication required.

All ordinances or propositions for amendment or repealing of ordinances submitted to the voters shall be published at least once in one or more of the daily newspapers in the City not more than thirty nor less than ten days prior to the elections.

State law reference(s)--Permissible that charter provide for initiative and referendum, MCL 117.4i(g).

Section 15. Ordinance book, filing required.

All ordinances after having been duly passed shall at once be filed in the office of the City Clerk and shall be recorded in the Book of Ordinances of the City of Muskegon. It shall not be necessary to enter any ordinance at length in the journal of the Commission but reference may be made thereto by its title in all actions upon the passage thereof.

Section 16. Charter, or ordinances; publication required, time.

Within one year after this Charter takes effect the City Commission shall cause to

be published in pamphlet form this Charter with the amendments thereof, if any, and all ordinances then in force in the City. If any ordinance shall have been amended, the complete ordinance with the amendment incorporated therein shall be published and not the original ordinance and amending ordinances.

Section 17. Same; public utility contracts; compilation, publication required, time.

At least once in each ten years thereafter the City Commission shall cause to be compiled and published in pamphlet form this Charter, all amendments to the Charter, all ordinances and all long term contracts between the City and public utility corporations. The correctness of such publications shall be certified to by the compiler.

Section 18. Ordinances, publication; evidence.

Proof of publication of any ordinance, resolution or other proceeding of the Commission may be made by an affidavit of the printer or publisher of the paper in which the same has been published and such affidavit when duly filed with the Clerk shall in all cases, courts and proceedings be prima facie legal evidence of the publication of such resolution, ordinance or other proceeding. All copies of the ordinance of the Commission purporting to have been published or printed by its authority shall in all courts and proceedings be received as prima facie evidence thereof and of their enactment and publication.

Section 19. Ordinances; violations, penalties, imprisonment, fines, costs and expenses.

City ordinances may provide penalties for violations. Penalties for civil infractions may include, without limitation, civil fines, costs, damages and expenses in the amounts authorized by State law. For criminal violations, ordinance penalties may include, without limitation, criminal fines and imprisonment for the amounts and periods authorized by any State law, and costs and expenses in lawful amounts.

(As amended February 22, 2000)

State law reference(s)--Restriction on fines and imprisonment, MCL 117.4i(k).

Section 20. Fines, recovery; civil action authorized.

Whenever a pecuniary penalty or forfeiture shall be incurred for violation of any ordinance and no provision shall be made for imprisonment of the offender on conviction thereof, or if the offender shall be a corporation, such penalty or forfeiture may be recovered in an action of debt or assumpsit.

Section 21. Same; civil actions, procedure.

Such action shall be brought in the name of the City of Muskegon and may be commenced by summons. All pleadings and proceedings in the case except as herein otherwise provided shall conform to and be the same as in like actions for the recovery of penalties for violation of the laws of the State. Upon rendition of judgment against the defendant execution shall issue forthwith and if not against a corporation shall require that if sufficient goods and chattels of the defendant cannot be found to satisfy the same the defendant be committed to the County jail for Muskegon County or the City jail for a

period not exceeding ninety days, unless the execution be sooner paid or the defendant discharged by due course of law.

Section 22. Ordinances, violations; prosecutions, pleadings, proceedings.

Prosecutions for the violation of ordinances may be commenced by summons, and in all cases except against corporations, by warrant for the arrest of the defendant. Such warrant shall be issued upon complaint as in criminal cases cognizable by justices of the peace and shall be substantially in the form of warrants issued under criminal cases. All pleadings and proceedings in the case shall be substantially in the form of warrants issued under criminal cases. All pleadings and proceedings in the case shall, except as herein otherwise provided, be governed by and conform as nearly as may be to the provisions of law in criminal cases cognizable by justices of the peace.

Section 23. Same; county jail; use authorized.

The City of Muskegon shall be allowed the use of the County jail of Muskegon County for the confinement of persons liable to imprisonment under the ordinances thereof and under any of the other provisions of this Charter and the sheriff or other keeper of the jail shall receive and keep any person committed thereto until lawfully discharged.

Section 24. Ordinances, violations; pleadings, process.

It shall not be necessary in any suit, proceeding or prosecution for the violation of any ordinance of the City to set forth such ordinance or any provision thereof in any complaint warrant, process or pleading therein, but the same shall be sufficiently set forth or stated by reciting the title and the date of passage or approval and it shall be a sufficient statement of the offense or action complained of in the said complaint or warrant to set forth substantially with reasonable certainty the time and place of the act or offense complained of and to allege the same to be a violation or an ordinance of the City referring thereto by its title and the time of its passage or approval.

Section 25. Penalties, forfeitures; actions, appeals.

In all prosecutions and in all suits to which the City shall be a party brought to recover any penalty or forfeiture for violation or breach of any ordinance commenced by summons, warrant or other process to which the City shall be a party, brought in Justice Court, like proceeding shall be had except as herein otherwise provided, and the judgment rendered therein may be appealed from by the City or defendant in like manner as similar cases tried before justices of the peace, except that the City of Muskegon, if it shall appeal [will] not be required to give any bond.

Editor's note--Justice courts have been abolished. See MCL 600.9921, 600.9930.

Section 26. Process; issuance, return.

All process issued by any justice of the peace to enforce any of the ordinances of the City shall be directed to the chief of police of the City of Muskegon or to the sheriff or any constable of the County of Muskegon, and such process may be executed by any of said officers anywhere in the State and shall be returned as any similar process issued

by justices of the peace.

Editor's note--Justice courts have been abolished. See MCL 600.9921, 600.9930.

CHAPTER VIII. GENERAL FINANCE*

***State law reference(s)**--Municipal Finance Act, MCL 133.1 et seq.; Uniform Budgeting and Accounting Act, MCL 141.421 et seq.

Section 1. Fiscal year.

The fiscal year of the City shall begin January first.

Section 2. Revenue; division into specific funds.

The revenues of the City shall be divided among such funds as the City Commission may determine which shall, however, include:

Contingent fund to defray contingent and other expenses for the payment of which from some other fund no provision is made.

Interest and sinking fund to defray expenditures for the payment of the public debt and interest thereon.

Special assessment fund to defray expenditures from moneys raised by special assessments for public improvements.

Section 3. Contemplated annual expenditures; estimate, submission; city manager, duty.

By the dates established by ordinance adopted by the City Commission, the City Manager shall submit to the City Commission an estimate of the contemplated expenditures and revenues for the ensuing year and the City Commission shall determine the amount and purpose of the necessary expenditures for such year and shall adopt a resolution fixing the amount of the appropriation to be made therefor. Provided, however, that the amount appropriated shall comply with Article 9 of the State Constitution of Michigan [1963] and be based on the assessable property of the City as established by the assessment roll for the current year.

(As amended May 8, 1920; September 11, 1934; and November 2, 2004)

State law reference(s)--See Art. 9, § 15 of Mich. Const. of 1963; mandatory requirement that charter provide for annual appropriation of money for municipal purposes, MCL 117.3(h).

Section 4. Receipts, delivery to city treasurer.

All moneys received, regardless of the source from which they come, shall be paid to, the City Treasurer, shall be entered in the proper fund relating to the purpose for which they are designed to be used and shall be applied only to such purpose.

Section 5. Special assessment funds, interest, sinking fund; special account

required.

All moneys belonging to special assessment funds and to the interest and sinking fund shall be kept in a single bank account separate from all other moneys.

Section 6. Transfer of funds.

No transfer shall be made from one fund to another except where there is an unappropriated balance in the contingent fund. Transfers not in excess of such unappropriated balance may be made from that fund to any other.

Section 7. Funds, insufficiency; warrants prohibited.

No warrant shall be drawn on the City Treasury against any fund which after deducting all prior warrants thereon has not a sufficient amount therein to pay such warrant.

Section 8. Same; Charter violation, officers; penalty.

If any commissioner shall vote for a transfer of funds or for the use of moneys or if the City Auditor or City Manager shall draw or sign any warrant contrary to the provisions of this Charter, he shall be at once subject to removal from his office and shall be ineligible to hold any office in the City of Muskegon for the period of five years thereafter. If the City Commission shall fail to make such removal within thirty days after such fact is known, any elector may apply to the Circuit Court for the County of Muskegon on the law or chancery side as the case may be, to compel the removal of such officer.

Section 9. Payment vouchers; certification required; warrants, signatures.

Payments by the City shall be made only on vouchers certified by the head of the appropriate department or other division of the City government, and by warrants on the City Treasury issued by the City Manager and countersigned by the City Clerk.

CHAPTER IX. BONDS

Section 1. Bonds, issuance; City Commission, authority.

The City Commission shall borrow no money and issue no bonds unless herein authorized or unless authorized by the electors of the City at an election wherein the question is lawfully submitted.

State law reference(s)--Authority to borrow money, MCL 117.4a.

Section 2. Bonds, issuance; purposes enumerated.

The City Commission is hereby authorized to borrow money and issue bonds for the payment therefor for the following purposes:

1. To pay for any public improvement in anticipation of a special assessment lawfully authorized at or prior to the time such loan is made and to be paid in installments approximately corresponding to the installments of such assessments.

Said bonds may be issued at the time of the letting of the contract for the improvement, if the work is to be done by contract, or upon the estimated cost of the improvement on the determination by the City Commission that the work shall not be done by contract. The loan shall not exceed in amount the contract price or the estimated cost of the improvement after deducting the City's share of such cost. The City Commission shall pledge the faith and credit of the City for the payment of such bonds, and the special assessment when collected shall be placed in a Sinking Fund for their payment.

(As amended May 4, 1922, November 5, 1946, and November 7, 1950)

- [2.] To pay the City's share for the cost of water mains, street and sewer improvements, not to exceed the sum of \$50,000.00 in any one year, but no sum shall be borrowed for such purpose in excess of seventy-five percent of the cost of such improvement nor for a longer time than ten years, and the bonds issued therefor shall be paid at maturity.
3. For emergency purposes in accordance with the provisions of the Home Rule Act of the State of Michigan [MCL 117.1 et seq.].
4. For the renewal of bonds falling due from time to time the payment of which at maturity is not required by this Charter or by the laws of the State of Michigan.
5. To pay any judgment or decree that shall have been rendered against the City for payment of which there are no available funds.
6. To defray the expenses of the City from July first, 1920, to December thirty-first following, if the amount levied on the tax roll of the City for 1919, together with the receipts from all other sources shall not be sufficient for that purpose and to pay the existing indebtedness of the City

for the payment of which no provision has been made, not exceeding, however, the sum of \$350,000.00.

Section 3. Bonds, issuance; submission to electors.

The City Commission may borrow money and issue bonds therefor for public purposes, not however, including current City expenses, whenever authorized so to do by a three-fifths vote of the electors of the City cast at an election wherein the matter of issuing such bonds is lawfully submitted.

Section 4. Total bonded indebtedness, restriction.

The total amount of bonded indebtedness of the City shall at no time exceed ten percent of the value of the assessable property in the City as shown by the tax roll for the preceding year.

State law reference(s)--Limitation on net bonded indebtedness, MCL 117.4a(2).

Section 5. Bonds; sinking fund required, exception.

The City Commission shall make provision for a sinking fund with which to pay at maturity all bonds issued by the City except serial bonds which fall due annually.

State law reference(s)--Sinking fund required, MCL 117.5(g).

Section 6. Bonds; terms, forms.

All details as to the terms and form of bonds and the issue thereof shall be determined by the City Commission.

CHAPTER X. CLAIMS

Section 1. Damages, claims; affidavit required, contents.

No claims against the City for damages growing out of negligence or default of the City or any officer or employee thereof shall be allowed unless it shall be accompanied with an affidavit of the person sustaining the damage or of someone in his behalf having knowledge of the facts, stating the time and place at which and the cause and manner in which such damage was sustained, the facts connected therewith and the witnesses, if any, present when the damages or injuries were received or sustained and in all claims for damage in consequence of any personal injury such affidavit shall also state the name of the attending physician, the amount of money paid for medical attendance, the loss of time and the value thereof, the extent of injury received, and the amount of compensation claimed for such damage or injury.

Annotation--The former Charter of the City contained a provision similar to the first paragraph of the above section. Plaintiff, who did not file the claim within six months, sued the City for damages resulting from personal injuries received on a defective sidewalk. It was urged that the requirement for filing a claim did not apply because the plaintiff was an infant at the time and also because the term "damages," as used in the Charter, did not refer to damages for personal injuries. It was held that the Charter provision applied to infants, as well as adults, and to claims for personal injuries. and that the plaintiff's claim was barred. See *Davidson v. City of Muskegon*, 69 N.W. 670 (1897).

Editor's note--The above section is superseded by MCL 691.1401 et seq.

Section 2. Claims; filing required, time; fires, destruction of buildings.

All claims for damages against the City growing out of the negligence or default of the City or any officer or employee thereof, shall be filed with the City Clerk within six months after such damage shall have been sustained or injury received, and in default thereof shall be forever barred.

All claims for damages against the City occasioned by reason of the destruction of any building for the purpose of arresting any fire shall be filed with the City Clerk within six months after the destruction of such building and the Commission in its discretion may make such compensation thereof as it may deem just, but no compensation shall be paid for a loss which would probably have occurred to such building if it had not been destroyed.

State law reference(s)--Filing notice for claim based on defective highway, MCL 691.1404; filing notice for claim based on dangerous public buildings, MCL 691.1406.

Section 3. Claims, requisites; city liability.

In any action in any court on any claim whatsoever, the claimant shall be required to show that such claim has been duly presented in the manner hereinabove provided to the City Commission for audit, investigation and allowance, and that the

Commission has had reasonable time to investigate and pass upon it before the bringing of such action. In case, however, there shall be any defect in the claim presented the City shall be deemed to have waived the same unless the Commission shall cause notice thereof to be given to the claimant within thirty days after the claim is filed. If the claim shall have been filed in due time the claimant shall have ten days after receiving notice in which to correct the defect even if the time would then otherwise have expired.

State law reference(s)--Filing notice for claim based on defective highway, MCL 691.1404; filing notice for claim based on dangerous public buildings, MCL 691.1406.

Section 4. Public ways, defects; liability; notice required.

The City shall not be liable to any person for injury received by him or his property in consequence of any sidewalk or crosswalk in the City not being kept clear of snow and ice, nor shall the City be liable to any person for injury received by him or his property by any defect in or on any sidewalk, crosswalk or street, unless it shall be shown that the defect occasioning the injury had existed thirty days prior to the injury, or unless the City had had actual notice of the existence of said defect at least five days before the injury occasioned thereby was received.

Editor's note--The above section is superseded by MCL 691.1403.

CHAPTER XI. TAXATION*

***State law reference(s)**--Mandatory requirement that Charter provide for levy, collection and return of state, county and school taxes in conformity with the general laws of the state, MCL 117.3(i).

Section 1. Taxation; state law.

All the provisions of the General Tax Law of the State of Michigan except as herein otherwise provided, shall apply to and control the assessment of property and the collection of taxes in the City of Muskegon and the taxing officers of the City shall have the same powers and shall be subject to the same duties as like officers under that law. The City Clerk, City Assessor and City Treasurer shall take notice of said law and comply therewith.

State law reference(s)--The General Property Tax Act, MCL 211.1 et seq.

Section 2. Board of review; composition, sessions; regulations.

The Board of Review shall consist of the City Assessor and the four members appointed by the City Commission as hereinbefore provided. It shall meet for the purpose of reviewing the assessment roll on the first Monday in the month of June, shall choose one of its members to be chairman and the chief assistant in the City Assessor's office shall be clerk of the board. It shall regulate for itself its order of proceeding, but no person who shall appear before it shall be refused a reasonable opportunity for a hearing. It shall remain in session for not less than ten nor more than fifteen consecutive days and shall be in session each day for at least six hours. On the completion of its work its chairman and clerk shall certify to the same as provided by the general tax law. After all hearings have been had the board may adjourn for the purpose of completing its work on the roll, but the same shall be duly certified on or before the first day of July.

State law reference(s)--Meetings of board of review, MCL 211.30; completion of review of assessments, MCL 211.30a.

Section 3. Same; meetings, notice required.

The City Clerk shall give notice to the public of the time and place of meeting of the Board of Review by publication in at least one newspaper published and circulated in the City at least six days immediately preceding such meeting and also by posting three copies of such notice in each voting precinct in the City.

Section 4. Annual appropriation resolution; delivery to Assessor.

On or before the first day of October in each year the City Clerk shall make and deliver to the Assessor a certified copy of the annual appropriation resolution and of the statement of school taxes as prepared by the Board of Education of the public schools of the City of Muskegon filed in his office.

Section 5. Taxes; interest, sinking fund; assessor, duty.

The Assessor in assessing the taxes shall place in a separate column those included in the interest and sinking fund.

Section 6. Taxes, due date; collection fees.

Collection fees, penalties and interest on taxes shall be collected by the City Treasurer in accordance with the provisions of state law.

(As amended November 8, 1994, § 2)

State law reference(s)--Tax collections, MCL 211.44 et seq.

CHAPTER XII. PUBLIC WORKS AND IMPROVEMENTS

Section 1. Public improvements; authority, state law.

The right to make public improvements and public works for municipal purpose and to acquire lands therefor either within or without the City, by gift, purchase or condemnation, shall be exercised by the City Commission subject only to the limitations of the laws of the State and of this Charter.

State law reference(s)--Permissible charter provisions, MCL 117.4e.

Section 2. Same; costs payable from the public funds.

The cost of all public improvements that benefit the City as a whole, and the cost of paving or improving street and alley intersections and such portion of the cost of the construction of water mains, main or lateral sewers, as the City Commission may determine to be just shall be defrayed from public funds.

Section 3. Same; costs, special assessments.

If, in the judgment of the City Commission, any such improvement made by it shall confer special benefit on any property in addition to that conferred on the City as a whole, such part of the cost thereof as the City Commission shall consider just shall be levied as a special assessment against such property.

State law reference(s)--Permissible charter provisions, MCL 117.4d(1)(a).

Section 4. Public ways; control, etc.; city authority.

The City shall have the power to use, control and regulate the streets, alleys and public grounds of the City and the spaces above and below the same, subject only to the laws of the State and limitations of this Charter, but no use thereof shall be granted that shall be exclusive or inconsistent with the public interests.

Section 5. Streets, paving; prerequisites.

No street shall be paved until all water pipes, sewer pipes and other conduits or subterranean works necessary or proper for the people along the street shall first have been laid and the City Commission shall not allow after the laying of any pavement any opening to be made therein for the purpose of laying or connecting with any such pipes or subterranean works, but at the time such works or pipes are laid suitable connections shall be installed that shall extend beyond the pavement.

State law reference(s)--Permissible that charter provide for the control and use of streets, MCL 117.4h.

Section 6. Public improvements; purchases, contracts, competitive bids.

The City Commission shall have power to make any public works or

improvement by the employment of necessary labor and the purchase of necessary supplies and materials, or to do the same by contract duly let which shall be after competitive bidding in case the cost thereof shall exceed five hundred dollars.

Section 7. City jurisdiction, boundaries.

The jurisdiction of the City for all municipal purposes shall extend over the waters of Muskegon Lake and River within its boundaries and over the waters of Lake Michigan adjoining the City for a distance of two miles from shore, and all process issued from any of the City Courts may be served within said limits.

Section 8. Plats; lands, sale; restriction.

The City Commission shall have power to approve all plats of land within the City whether private or public and to prohibit and prevent the sale of lots by use of plats in which the streets therein contained shall not conform in width and location to the streets of the City in that locality.

State law reference(s)--Land Division Act, MCL 560.101 et seq.

Section 9. Public utilities; acquisition, authority.

The City shall have the power to acquire by construction, purchase or condemnation, public utilities of all kinds and to operate and maintain the same.

State law reference(s)--Authority to establish and operate public utilities, MCL 117.4e.

CHAPTER XIII. SPECIAL ASSESSMENTS

Section 1. Charter provisions applicable.

Special assessments shall be made in accordance with the provisions of this chapter.

Section 2. Special assessments; intention, notice required, contents.

The City Commission shall give notice of its intention to make a special assessment by publication in one or more papers published and circulated in the City of Muskegon, which notice shall contain:

1. A description of the improvement for the payment of which the assessment is to be made.
2. A description of the district on which the assessment is to be made.
3. The portion of the cost to be paid by special assessment.
4. A statement that plans of the improvement and estimates of the cost are on file in the office of the Clerk and subject to examination.
5. The time and place where the Commission will meet to hear objections to the making of the improvement and the levying of the assessment.

Section 3. Same; hearing; objections, regulations.

If at or prior to the hearing the owners of more than one half of the property to be assessed shall object thereto in writing, the improvement shall not be made unless the Commission shall determine by the affirmative vote of all its members that the safety or health of the public necessitates the improvement, in which case it may be made.

State law reference(s)--Power relative to special assessments, MCL 117.4a, 117.4b, 117.4d, 117.5(e).

Section 4. Special assessment roll; omissions; City Assessor, authority.

If any lot or parcel of land shall for any reason have been omitted from the said roll or exempted or partially exempted thereon, it shall nevertheless be subject to such special assessment and the City Assessor shall place on the special assessment roll a fair valuation thereof corresponding to the values of other property in the special assessment district and such valuation shall be used for the purpose of such special assessment.

(As amended November 7, 1950)

Section 5. Special assessments; costs, determination.

In determining the amount of the special assessment the cost of such improvement shall include the cost of everything pertaining thereto and to the making of

the assessment.

Section 6. Same; levy, prerequisites.

No special assessment shall be levied before the letting of the contract for the improvement, if the work is to be done by contract, or the determination by the Commission that it shall not be done by contract.

Section 7. Assessments according to frontage or benefits.

Special assessments may be made according to frontage or benefits as the Commission shall determine. When made according to frontage they shall be made by the City Assessor. When made according to benefits they shall be made by a board of three members, one of whom shall be the City Assessor and the other two shall be members of the Commission designated by the Commission.

Section 8. Resolution required; contents.

The Commission shall order a special assessment by resolution which shall determine whether it is to be made by frontage or benefits, shall designate the several lots or premises to be assessed, the amount of the assessment and the number and amount of installments, if it is to be paid in installments.

Section 9. Assessments, frontage or benefits; regulations.

If the assessment is to be made according to frontage, each lot or parcel of land shall be assessed such relative portion of the whole amount to be levied as the frontage of such lot or parcel on the improvement bears to the whole frontage of all the lots or parcels to be assessed, provided, if by reason of the shape or size of any parcel such assessment may be inequitable the relative frontage may be changed to meet such condition. If the assessment is to be made according to benefits, each lot or parcel shall be assessed such relative portion of the whole sum to be levied as shall be proportionate to the benefits of such lot or parcel from the improvement.

Section 10. Special assessment roll; contents.

The special assessment roll shall contain an accurate description of each parcel of land in the special assessment district, the frontage on the improvement if the assessment is to be made according to frontage, the valuation of the parcel as shown by the last preceding assessment roll, or as determined by the Assessor as the case may be, and the amount of the special assessment chargeable against each parcel.

(As amended November 7, 1950)

Section 11. Same; review, notice required.

The Assessor or Board of Assessors, as the case may be, shall attach to such special assessment roll a certificate showing the action taken by him or them, and shall thereupon file the roll with the Clerk who shall give notice of the time and place when the Commission shall review said roll and hear objections thereto, by publishing such notice for at least two successive weeks in one or more papers published and circulated in the

City of Muskegon.

Editor's note--The notice provisions in the above section are superseded by MCL 211.741 et seq.

Section 12. Special assessment roll; review, confirmation.

At the time appointed or at some adjourned meeting the Commission shall review the roll and shall hear and consider all objection thereto, whether written or oral. The Commission may make any correction necessary or just or may refer the roll back to the Assessor or Board of Assessors with directions to correct the same or to make a new roll as conditions may require. If the roll shall be approved, the Commission shall pass a resolution confirming the same and the Clerk shall endorse thereon a certificate showing the confirmation and the date thereof.

Section 13. Same; lien on premises.

Special assessment shall from the date of confirmation thereof constitute a lien on the respective lots or parcels of land assessed and shall be a charge against the owner thereof until paid.

Section 14. Special assessment roll; mayor's warrant; due date, interest.

Upon the confirmation of such roll the Mayor shall endorse thereon or attach thereto a warrant bearing date the day of confirmation, commanding the City Treasurer to collect the several sums thereon assessed. On all special assessments unpaid more than sixty days after the date of confirmation the City Treasurer shall collect interest from the expiration of said period at the rate of five percent per annum. The warrant shall remain in full force and effect until the special assessment is paid or until it shall be levied on the general tax roll of the City as herein provided.

Section 15. Assessed premises; apportionment.

In case there shall be a change in ownership of a portion of any of the lots or parcels described on said roll, the Treasurer may divide such portion and allow each portion to be paid by itself. In case of assessment by frontage the division shall be made in proportion to the number of feet frontage. In case of assessment by benefits it shall be made in proportion to the area of the respective portions.

Section 16. City Treasurer duties.

Upon receiving any special assessment roll and warrant, the City Treasurer shall proceed to collect the amounts assessed thereon and the interest, if interest is payable.

Section 17. Unpaid special assessments; interest; City Treasurer, duties.

Between the first and fifteenth days of October in each year, the City Treasurer shall make return duly certified by him of all special assessments or installments thereof then in his hands which are due and have remained unpaid and shall add thereto interest at the rate of five percent per annum from the confirmation of the roll to the first day of December following, and the City Assessor shall levy and assess the same on the

general assessment roll for that year in a separate column headed "Special Assessments."

Section 18. Invalid, defective assessments; reassessment authorized.

Whenever the Commission shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, the Commission shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been made or not, and whether any part of the assessment has been paid or not. All proceedings on such reassessment and for the collection thereof shall be made in the same manner as provided for the original assessment. If any portion of the original assessment shall have been paid and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been paid, the balance shall be refunded to the person making such payment.

Section 19. Same; court determination, restriction.

No special assessment shall be held invalid by any court by reason of the failure of the Commission to take any of the steps herein prescribed before the assessment is ordered, provided the notice of hearing prescribed in section two of this chapter shall have been given and the hearing actually had, and no objections on the ground of such failure shall have been made; nor shall any such special assessment be held invalid by reason of any default of the City or its officers in the making of said assessment provided the notice of the confirmation of the assessment roll shall have been given and the hearing thereof had and such objections shall not have been raised or urged on such hearing.

Section 20. Unpaid assessments; action in assumpsit authorized.

At any time after any special assessment has become due and payable the same may be collected by suit in the name of the city against the person assessed in an action of assumpsit in any court having jurisdiction of the amount. In every such action a declaration upon the common counts for money paid shall be sufficient. The special assessment roll and the certificate of the confirmation thereof endorsed thereon and the warrant for the collection thereof shall be evidence of the regularity of all the proceedings in making the assessment, and of the right of the City to recover judgment therefor.

State law reference(s)--Authority for an action in assumpsit to recover unpaid assessments, MCL 211.501 et seq.

Section 21. Same; assumpsit, defense, limitation.

If in such action it shall appear that by reason of any irregularity or informality the assessment has not been properly made against the defendant or the lot or premises sought to be charged the court nevertheless on proof that the expense has been incurred by the City which is a proper charge against the defendant or the lot or premises in question, shall render judgment for the amount properly chargeable against such defendant or upon such lot or premises.

Section 22. Judgments, decrees; lien, impairment.

No judgment or decree or any act of the Commission vacating a special assessment shall destroy or impair the lien of the City upon the premises assessed for such amount of the assessment as may be equitably charged against the same or by a regular mode of proceeding might have been lawfully assessed thereon, nor shall the bringing of any suit by the City for such assessment be deemed a waiver of such lien nor of the right to enforce the same.

Section 23. Land, particular parcel; assessment authorized.

Whenever the Commission shall direct the construction or repair of any work whereby a particular piece or parcel of land shall be benefited, or the abatement of any nuisance on any such piece or parcel of land and by reason of default of the owner or occupant of such parcel in performance thereof, the same has been done by the City, the expense thereof shall be a lien on such premises and may be assessed as a special assessment on the general assessment roll of the City.

Section 24. Same; notice required, regulations.

Before any such work or act shall be ordered the Commission shall give to the parties interested a notice of not less than fourteen days of the time when they may be heard concerning the same. Such notice shall be in writing and may be served personally or by registered mail. If the residence of the owner of an premises to be affected shall not be known, service may be made by publication in one of the newspapers of this City not less than three times. In case of abatement of nuisances or other work requiring prompt action, such notice may be of reasonable length as the conditions may require and as the Commission shall determine.

Editor's note--The notice provisions in the above section are superseded by MCL 211.741 et seq.

Section 25. Same; costs, computation; due date, interest.

The cost of such work shall include the cost of publication, if any, and all other expenses incident thereto, and as soon as the same is ascertained the Clerk shall certify the amount thereof to the Treasurer, giving the name of the person liable therefor and a description of the premises chargeable therewith. The Treasurer shall thereupon give notice to the person named of the amount thereof, personally or by registered mail, and that the same may be paid at his office within thirty days thereafter without additional cost. If the same shall remain unpaid after that time he shall charge interest at the rate of six percent per annum from the date of notice.

Section 26. Appeals; time, hearing; commission authority.

Any person interested in such assessment may appeal to the Commission from such determination at any time within twenty days after the service of notice by the Treasurer and may petition for hearing on the same. On receipt of such petition the Commission shall appoint a time for hearing, of which notice shall be given to the petitioner. At the time fixed the Commission shall hear and consider all objections that may be urged against the assessment and then or at some subsequent meeting shall act on the same and shall affirm, modify or cancel such assessment, as the case may

require. Such assessment shall then be recertified to the Treasurer and may be paid without additional charges within thirty days after the determination by the Commission.

Section 27. Unpaid special assessments; certification to Assessor, levy.

Between the first and fifteenth days of October of each year the treasurer shall certify to the assessor the amount of all such special charges in his hands that shall have remained unpaid for the period of thirty days and he shall include in said amount interest thereon from the date the same were certified to him until the first day of December following, at the rate of five percent per annum, and the Assessor shall levy the same on the general tax roll in a column headed "Special Assessments" against the person or property to be charged therewith. No special assessment shall be declared and held to be invalid by reason of any defect or default in the proceeding herein prescribed provided the notice of hearing provided for in section twenty-four has been given or provided that the person whose duty it was to do such work had notice or knowledge that the same was being done by the City of Muskegon and did not make objections thereto before the completion of the same.

Section 28. Railroads; land subject to special assessments.

The lands and premises of railroad corporations within the City of Muskegon, regardless of the use which may be made thereof, shall be subject to special assessments as in this chapter provided, the same as the lands and premises of other individuals or corporations, and the owners or lessees in control thereof shall be liable for the payment of such special assessments the same as are the owners of other lands.

State law reference(s)--Authority to levy special assessments for local improvements against railroad property, MCL 211.7v.

CHAPTER XIV. FRANCHISES FOR PUBLIC UTILITIES AND OTHER FACILITIES

[Section 1. Right and jurisdiction reserved.]

The City reserves the right and jurisdiction provided by the laws of the State of Michigan for the granting, refusal, administration and revocation by Home Rule Cities of franchises. The City shall provide by ordinance for the requirements and conditions pursuant to which franchises may be granted, refused, administered and revoked, concerning public utilities and other franchisees. Franchises may be granted, refused, administered and revoked pursuant to city ordinance in accordance with the Constitution and the laws of the State of Michigan.

(As amended November 4, 1997)

CHAPTER XV. CIVIL SERVICE*

***Editor's note**--This chapter is an amendment adopted November 5, 1936.

State law reference(s)--Charter may provide for a system of civil service for its employees, MCL 117.4i(h).

Section 1. Board of civil service commissioners; appointment, term, filling vacancies, compensation.

The Mayor by and with the consent and advice of the City Commission shall appoint three persons, citizens and residents of said City, who shall constitute and be known as the board of civil service commissioners of such City, and shall designate one of the persons so appointed to serve for a term of two years, one for a term of four years and one for a term of six years from the first day of January in the year of their appointment and until their respective successors are appointed and qualified. Each alternate year thereafter the Mayor with the advice and consent of the City Commission shall appoint one person as the successor of the member whose term shall expire to serve for six years. Any vacancy shall be filled by the Mayor with the advice and consent of the City Commission for the unexpired term. No member shall hold any other lucrative office or employment, except notaries public, under the United States, the State of Michigan, or any municipal corporation or political division thereof, and each Commissioner shall before entering upon the discharge of the duties of his office and within ten days after receiving notice of his appointment, take and subscribe the oath of office prescribed by the Constitution of this State, and file the same, duly certified by the officer administering it with the Clerk of this City. The Commission shall at a meeting in January of each alternate year following the appointment of the commissioner to be appointed at each alternate year, elect one member to act as president and one member to act as vice president, each for a term of two years, and until successor is duly elected. Two commissioners shall constitute a quorum necessary for the transaction of business. The Mayor with the advice and consent of the City Commission may remove a commissioner during a term of office only upon stating in writing the reasons for removal and allowing him an opportunity to be heard in public in his own defense and to be represented by counsel at any and all hearings on proceedings of removal from office. The Commission shall serve without salary.

Section 2. Powers and duties.

The Commission shall classify all the offices of employment; shall make rules for the examination and selection of persons to fill the offices and positions in the classified service; shall supervise the administration of the civil service rules, hold examinations thereunder from time to time, giving due notice thereof, prepare and keep an eligible list of persons passing such examinations, and certifying the names of persons thereon to appointing officers of the several departments; shall by itself or otherwise investigate the enforcement of the provisions of this chapter of the Charter, of its own rules and of the action of appointees in the classified service; provided however, that the rules made by the Commission and the system in marking examinations thereunder shall not be

changed for a period of thirty days prior to or after such examinations and such systems of marking shall be published in advance of such examinations and copies furnished to all applicants. No credit shall be allowed for experience until the applicant taking the examination has at least attained the percentage fixed as the minimum.

Section 3. Classified service; applicants, examination required.

All applicants for office or positions in said classified service, except those otherwise specified, shall pass an examination. All persons desiring to appear for examination shall file with the Commission a statement in relation to their name, residence and post office address; their citizenship; their age, place of birth, health and physical capacity for the public service; previous employment in the public service; business or employment and residence for the previous five years and their education.

Section 4. Eligible lists, grades; leaves, transfers, resignations.

For [From] the returns of the examinations held by the Commission, it shall prepare an eligible list for each grade or class of position in the competitive classified service of the City. The Commission shall strike off the names of candidates from the eligible list after they have remained thereon one year, provided however, that any list may be extended by the Commission for a period of not exceeding one year. The Commission may upon the written request of any person who has previously been in the classified service for a continuous period of not less than three years grant upon request to such person a leave of absence to engage in other work of a governmental nature or character provided that the reasons for the requesting and granting of such leave of absence are at the time of such request and permission made a part of the minutes of the proceedings of the Commission. The Commission may grant leaves of absence for reasons of health or for service in defense of country and upon the expiration of the term of leave as fixed by the Commission or extended by it upon further application for an extension, reinstate said person in the service in the same kind and grade of work he was performing at the time of his request for leave of absence. The Commission may upon written request of any person who has previously been in the classified service for a continuous period of not less than three years and who shall not have been out of the service for more than one year, and who shall have resigned from the service in good standing, reinstate said person in the service by placing him at the foot of the eligible list applicable to such kind and grade of service.

Section 5. Filling positions, procedure.

The head of any department in which a position is to be filled shall notify the Commission of that fact and in the event the position is to be filled by promotion from one grade of service to another, then the Commission shall certify to the appointing officer the name and address of the person standing highest on the eligible list for promotion, but in the event that the position to be filled is one for which a vacancy exists, then the Commission shall certify to the appointing officer the names and addresses of the three persons standing highest on the eligible list. At or before the expiration of the period of probation the head of the department or office in which a candidate is employed may, with the consent of said Commission, based upon the written reasons submitted to it, discharge him, or the Commission may transfer him to another department with the consent of the head of such department, but if not discharged prior to the expiration of the period of probation, as hereinafter fixed, his appointment shall be

deemed complete.

Annotation--Employees of the fire department brought an action for a declaratory judgment for construction of the provisions of the Charter concerning the eligible list and the effect of promotion of the person standing highest on the list. The civil service commission argued that, after the top person on the list has been promoted, the list can serve no further purpose. The plaintiffs argued that, after the top person is promoted, the list is still viable and the person next in line moves up to the priority position. The Supreme Court of Michigan adopted the latter argument as being "the clear intent" of the Charter and affirmed a decree for the plaintiff firemen. See *Caswell v. Board of Civil Service Commission of Muskegon*, 25 N.W. 2d 178 (1946).

Section 6. Promotions; regulations authorized.

The Commission shall provide the rules for promotion to all offices in the classified service, based upon merit, efficiency, character, conduct and seniority.

Section 7. Appointive officers; civil service regulations inapplicable.

The following officers and employees shall not be affected by the provisions of the civil service: Officers appointed by the City Commission; directors of the several City departments as in this Charter defined.

Section 8. Temporary appointments; procedure.

To prevent the delay of special business or to meet extraordinary exigencies, the appointing officer of each department with the approval of the Civil Service Commission, may make temporary appointments to remain in force not exceeding sixty days, and only until legal appointments under the provisions of this chapter can be made, provided, however, that no person who does not possess the minimum requirements for such position as may be prescribed by the rules of the Civil Service Commission shall be permitted to serve in such temporary positions. No person shall receive more than one temporary appointment in any one fiscal year. In case of an emergency or in the event of the necessity for filling such positions created by an emergency, an appointment may be made of not to exceed thirty days duration, which appointment shall be immediately reported to the Civil Service Commission.

An appointment or promotion shall not be deemed complete until a period of probation of not to exceed six months has elapsed and a probationer may be discharged or reduced at any time within said period of probation upon written recommendation of the department head with the advice and consent of the Civil Service Commission.

If at any time it shall be deemed necessary by the Municipal Government or any division thereof to reduce the personnel of any department such reduction shall be had by suspending in numerical order, commencing with the probationers, if any, then the last appointee and continuing until such reduction in personnel as may be required by the particular exigencies of the time, shall have been made. Any increase of personnel of such department to the status or number existing prior to said reduction shall be by reinstating the last employee so suspended and continuing in numerical order until all such reinstatements shall have been made.

Section 9. Classified service, unclassified service; composition.

The Civil Service of the City is hereby divided into classified and unclassified service. The unclassified service shall include the several officers and positions hereinbefore described to be excepted from the provisions of this chapter. The classified service shall comprise all positions not specifically included in this Charter in the unclassified service. There shall be in the classified service three classes to be known as the competitive class, noncompetitive class and labor class. The competitive class shall include all positions and employment for which it is practical to determine the merit of applicants by competitive examination. The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character as may be determined by the rules of the Civil Service Commission. The labor class shall include ordinary unskilled labor.

Section 10. Classified service; discharge, suspension, reduction in rank, compensation; hearing required.

No employee under the classified service shall be discharged or reduced in rank or compensation until he has been presented with the reasons for such discharge or reduction specifically stated in writing, and has been given an opportunity to be heard in his own defense and any counsel retained by him may present his cause to the Civil Service Commission. The reasons for such discharge or reduction and any report in writing thereunder by such employee shall be filed with the Civil Service Commission. Any employee of any department in the classified service who is suspended, reduced in rank or dismissed, may appeal to the Civil Service Commission which shall designate the manner, time and place by and at which such appeal shall be heard. All hearings before the said Civil Service Commission shall at all times be open to the public. In the event that the Civil Service Commission shall not sustain the charges made against such employee, the said employee shall thereupon be entitled to resume his position and to receive compensation for the time lost.

Section 11. Civil Service Commission; members; gifts, compensation, etc.; prohibited.

No member of the Civil Service Commission shall receive any money or other valuable consideration from any candidate for appointment, for examination or from any other person for or on account of said candidate, nor shall any officer or employee of the City be permitted to give either directly or indirectly to any person any money or other valuable consideration whatsoever for, or on account of his promotion.

Section 12. Personnel director; appointment authorized; compensation, restriction.

The Civil Service Commission may appoint a personnel director who shall act and serve under the direction of said Commission and at the pleasure of such Commission, and such personnel director may be an employee in the municipal service. The salary of such personnel director, if he is taken from other than a municipal service, shall be fixed by the Commission, but if taken from the municipal service, he shall fill the duties of personnel director without other compensation than that paid him in his other employment.

Section 13. Present employees; appointments, eligibility; examinations waived.

All persons in the employ of the City holding positions in the classified service at the time of the going into effect of the Charter as such services are defined by this Chapter of the Charter, are hereby declared eligible for permanent appointment without examination or other act on their part.

Section 14. Political, religious, etc., beliefs; discrimination prohibited.

No discrimination shall be exercised, threatened or promised to any person coming under the provisions of this chapter of the Charter because of his political or religious opinions, beliefs or affiliations.

Section 15. Department payrolls; delivery to Commission.

The Commission shall be furnished by each department under its jurisdiction with a copy in duplicate of each payroll on the day designated by the Commission, and the Commission shall examine such copies to determine if all the names and no other names are on said payroll than those on the active list and that they have been properly certified by the Commission.

Section 16. City Commission; civil service, maintenance; annual appropriation required.

The City Commission shall appropriate each year a sufficient sum to carry out the several provisions of the chapter of the Charter.

Section 17. Conflicting provisions repealed.

Any provisions of any chapter or section thereof of the Charter of the City of Muskegon which may be found to be in conflict with any of the provisions of this chapter and the several sections thereof or inconsistent therewith are hereby repealed.

CHAPTER XVI. RETIREMENT SYSTEM FOR THE EMPLOYEES OF THE CITY OF MUSKEGON EXCLUSIVE OF POLICEMEN, FIREMEN, ET AL*

***Editor's note**--This chapter is an amendment adopted November 5, 1946, as amended August 7, 1975.

Section 1. Employee retirement system to be provided by ordinance.

A complete retirement system shall be provided for the employees of the City of Muskegon, exclusive of policemen and firemen, by general ordinance. The benefits applicable to the members of the Charter Retirement System at the time of the adoption of this Charter amendment shall not be diminished by the Ordinance retirement system.

Section 2. Administration board of trustees.

The retirement system shall be administered by a board of trustees consisting of:

- (1) Two members of the City Commission to be selected by the Commission, to serve at the pleasure of the Commission.
- (2) The City Manager by virtue of his office.
- (3) A citizen who is an elector of the City, to be appointed by the Mayor with consent of the City Commission.
- (4) Three members of the retirement system to be elected by the members of the system under such rules and regulations as the board of trustees shall from time to time adopt, provided that no more than one such trustee shall be from any one city department.

Section 3. Effective date.

The effective date of this Charter amendment shall be January 1, 1976, but Chapter XVI of the Charter as it existed at the time of the adoption of this amendment shall continue in full force and effect until the enactment by the City Commission, and the taking effect of the ordinance provided for in Section 1 hereof.

Section 4. Repeal of former Sections 5 to 38 and conflicting provisions.

Sections 5 to 38, both inclusive, of Chapter XVI of the Charter of the City of Muskegon are hereby repealed. All provisions of the Charter inconsistent with the provisions of this Charter amendment are hereby repealed to the extent of such inconsistency. The adoption of this Charter amendment shall not be construed as reenacting any Charter provisions heretofore repealed by said Chapter XVI.

Sections 5--38. Reserved.

Section 39. Amendment; effective date.

The 1956 amendments to Chapter XVI (sections one through thirty-nine) of the City Charter shall become effective as of the social security date.

CHAPTER XVII. MISCELLANEOUS

Section 1. Trades, occupations, amusements; regulations, licenses, expiration date.

The City Commission may regulate and license trades, occupations and amusements within the City boundaries and prescribe the terms and conditions of such licenses, but every license shall terminate on or before May first after it is granted.

State law reference(s)--Authority to regulate trades and business, MCL 117.4i(d).

Section 1a. Employees; life, health, accident benefits.

The City Commission shall be authorized to provide group life, health and accident and/or hospitalization insurance, including surgical and medical expense and dependent coverage, for City employees, either with or without participation in the cost thereof by said employees, and to appropriate the necessary funds therefor.

(As amended November 4, 1952)

State law reference(s)--Authority to provide employee accident and death benefits, MCL 117.4i(h).

Section 2. Streets, alleys; plan.

It may make a plan of streets and alleys within its limits and for a distance of three miles beyond and require all streets and alleys laid out and dedicated to the public within the territory covered by such plan to correspond therewith.

State law reference(s)--Authority to make a plan for streets and alleys, MCL 117.4h.

Section 3. Zoning.

It may prescribe by ordinance districts within the City which shall be used only for residence purposes and residence districts within which a limited amount of business to be fixed by the ordinance may be allowed and districts within which business, trades and occupations may be carried on, and make reasonable regulations concerning the same.

State law reference(s)--Authority to provide for zoning districts, MCL 117.4i(c).

Section 4. Buildings; construction, repair; building lines.

It may regulate the construction and repair of buildings within the City and establish building lines.

Section 5. Real estate taxes; indigent persons; payment, requisites.

It may pay the real estate taxes of any person who in the judgment of the

Commission is too poor to pay the same, but in all cases where the Commission shall pay such taxes it shall take and retain a mortgage lien upon the land against which the taxes are assessed, the form of which shall be determined by the City Attorney, and which shall take precedence over all subsequent transfers or incumbrances and shall be recorded and enforced as other mortgages.

Section 6. Employees, contractors; working hours; ordinance authorized.

Eight hours per day (forty-eight hours per week) shall constitute the regular working time for all persons engaged in work for or sublet by the City and every contract involving the hiring of help to be employed on City work shall contain a provision so fixing the hours of employees engaged on work for which such contract provides, provided however, that this section shall not apply to City officers nor boards and that the City Commission may by ordinance fix the working time of the City's clerical force and the members of the fire department.

Section 7. City litigation; bonds, not required.

In case the City shall take an appeal in any court or shall cause a writ of error to be issued in its behalf in any suit brought by or against the City it shall not be necessary in order to perfect such appeal or to stay proceedings upon any judgment or decree for the City to execute any bond or other undertaking.

Section 8. City council; continuance in office; successors.

The existing council at the time this Charter takes effect shall continue in the administration of the City's affairs under the prior Charter until the first day of January, 1920, and the then existing officers and employees of the City shall continue to perform the duties of their respective positions until their successors are chosen and qualified.

Section 9. Initial election under Charter, requisites.

The Council in office at the time of the adoption of this Charter shall make all necessary arrangements in accordance with the provisions hereof for the first election under its provisions which shall be held on the fourth day of November, A.D., 1919, and shall appoint temporary inspectors of registration and election therefor and shall meet and canvass the votes cast at such election in place of the board of election commissioners and shall do everything in that regard prescribed by this Charter to be done by such election commissioners or the City Commission; provided, however, that the ballots shall be prepared by the City Recorder.

Section 10. Previous Charter; superseded by this Charter; saving clause.

This Charter shall supersede the existing Charter of said City but all rights and rights of action now existing, all suits in course of prosecution for or against the City under the former act of incorporation shall remain unimpaired and all taxes levied and uncollected shall be collected the same as if this Charter had not been adopted and in case the course of proceeding provide for in this Charter shall differ from that in the one which it supersedes, either method may be followed, it being the intention that no rights of any name or nature in existence at the time of the adoption of this Charter shall be lost or jeopardized.

CHAPTER XVIII. RESERVED*

***Editor's note--**This chapter was adopted April 1, 1935, and amended November 6, 1956, and related to the municipal court. It has been omitted, since such courts have been abolished by MCL 600.9921.

CHAPTER XIX. POLICEMEN AND FIREMEN RETIREMENT SYSTEM*

***Editor's note**--This chapter was adopted November 7, 1944, and originally set out the retirement system in detail. The amendment of August 7, 1973, amended the chapter to read as set out herein.

Section 1. To be established by ordinance; existing benefits not to be diminished.

A complete retirement system shall be provided for policemen and firemen of the City of Muskegon, by general ordinance. The benefits applicable to the members of the Charter Retirement System at the time of the adoption of this Charter Amendment shall not be diminished by the Ordinance Retirement System.

(As amended August 7, 1973)

Section 2. Repealer.

Sections two to forty-five, both inclusive of chapter XIX of the Charter of the City of Muskegon are hereby repealed. All provisions of the Charter inconsistent with the provisions of this Charter Amendment are hereby repealed to the extent of such inconsistency. The adoption of this Charter Amendment shall not be construed as reenacting any Charter provisions heretofore repealed by said chapter XIX.

(As amended August 7, 1973)

Section 3. Effective date; continuation of existing system until ordinance adopted.

The effective date of this Charter Amendment shall be January 1, 1974, but chapter XIX of the Charter as it existed at the time of the adoption of this Amendment shall continue in full force and effect until the enactment by the City Commission, and the taking effect of the Ordinance provided for in section one hereof.

(As amended August 7, 1973)

CHAPTER XX. CHARTER PARK LANDS

[Section 1. Establishment.]

The City Commission may establish, by resolutions from time to time, on lands in the city owned by it in fee simple, parks and park land, to be called Charter Parks. A resolution establishing such Charter Park or Parks shall contain the complete legal description of the land to be included, and shall refer to the City Charter as constituting the authority for such establishment. Upon the final adoption of such resolution it shall be certified and recorded at the Register of Deeds, in addition to any other required public notice. Thereafter, land established by any such resolution as a Charter Park shall not

be sold, mortgaged, transferred or conveyed by the City except with the approval of the majority of the electors voting at an election held in the City. The establishment of a Charter Park by this method shall be irrevocable. The City Commission may in its discretion prescribe that public notice shall be given, and direct the form thereof, before consideration of any such resolution. This provision shall not prevent other lands from being city parks or park land.

(Added August 4, 1998)

CHARTER COMPARATIVE TABLE

This table shows the location of the amendments to the basic charter.

TABLE INSET:

Referendum Date	Section	Disposition this Charter Chapter/Section
5- 8-1920		VIII/3
9-11-1934		VIII/3
4- 1-1935		III/1
		XVIII
11- 7-1944		XIX
11- 5-1946		XVI/1--4
4- 7-1947		II/5, 15
11- 7-1950		XIII/4, 10
11- 6-1956		XVIII
11- 3-1964		III/4
8- 7-1973		XIX/1--3
8- 7-1975		XVI/1--4
11- 2-1982	1	I/4
	2	II/8
	3	III/1, 3
11- 8-1994	1	III/1, 2, 5
	2	XI/6
11- 4-1997		XIV
8- 4-1998		XX
11- 2-1999		III/10
2-22-2000		VII/19